

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

RODNEY ARNETTE EDMUNDSON,

Plaintiff,

vs.

WARDEN LEROY KIRKEGARD,  
SERGEANT A. GRAHAM, JANE  
LaMOURE, HEALTHCARE  
SUPERVISOR CATHY (last name  
unknown), ALISHIA HANNA  
(NURSE), and SERGEANT  
MICHEAL HOTCHKISS,

Defendants.

FILED  
MAR 17 2015

Clerk, U.S District Court  
District Of Montana  
Missoula

CV 14-61-H-DLC-JTJ

ORDER

United States Magistrate Judge John T. Johnston entered Findings and Recommendations on February 24, 2015, recommending that Plaintiff's due process claims and Defendants Kirkegard, LaMoure, and Healthcare Supervisor Cathy be dismissed. Plaintiff failed to timely object to the Findings and Recommendations, and so waived the right to *de novo* review of the record. 28 U.S.C. § 636(b)(1). The Court will therefore review the record for clear error.

*McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313

(9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). There is no clear error in Judge Johnston’s Findings and Recommendation and the Court adopts them in full. Because the parties are familiar with the facts of this case they will only be included here as necessary to explain the Court’s order.

Judge Johnston did not clearly err in finding that a prison official’s review and denial of an inmate’s grievances, without more, cannot serve as the basis for liability under 42 U.S.C. § 1983. *Ramirez v. Galaza*, 334 F.3d 850, 860 (9th Cir. 2003). There is no clear error in Judge Johnston’s determination that Healthcare Supervisor Cathy and Jane LaMoure were responding to grievances regarding alleged past violations and therefore cannot be held liable for causing the alleged constitutional violations. Similarly, Judge Johnston did not clearly err by finding that Edmundson’s inclusion of Warden Kirkegard, absent any allegations in the body of the Complaint, indicates an allegation of denial of due process regarding the review of grievances. There is no clear error in the finding that Edmundson has failed to state a claim upon which relief may be granted as it relates to the allegation of denial of due process regarding the review of his grievances as applied to Healthcare Supervisor Cathy, Jane LaMoure, and Warden Kirkegard.

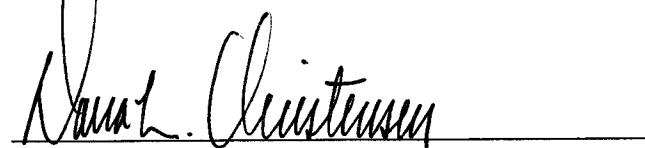
This Court agrees that the deficiencies could not be cured by the allegation of additional facts.

Accordingly, IT IS ORDERED that Judge Johnston's Findings and Recommendation (Doc. 9) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Plaintiff's due process claims are DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that Defendants Kirkegard, LaMoure, and Healthcare Supervisor Cathy are DISMISSED.

Dated this 17<sup>th</sup> day of March, 2015.



---

Dana L. Christensen  
United States District Court